?BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
%DATED: 12.11.2018
*CORAM
THE HONOURABLE MR.JUSTICE G.R.SWAMINATHAN
+W.P.(MD)No.10047 of 2018
#1.M.Natraya Konar
2.N.Shanthi ... Petitioners
Vs.

$1.National Highways
Authority of India,
G.5 & 6, Sector 10, Dwarka,
New Delhi: 110 075,
represented through its General Manager

2.The Project Director (NH 45)
National Highways Authority of India,
No.45/B, (Land Acquisition),
Unit~II, Ponnagar, Thiruchirappalli: 620 001.

3.The Authorised Officer cum Divisional Revenue Officer,
(Land Acquisition Officer for NHAI),
Collectorate, Thiruchirappalli: 620 001. ... Respondents

PRAYER: Petition filed under Article 226 of the Constitution of India to issue a Writ of Mandamus, to direct the respondents to surrender petitioners unutilised acquired land to an extend of 1065 Sq.Mts in S.No.179/1A1 (26 cents) in Nagamangalam village, Srirengam Taluk, Thiruchirappalli District.

!For Petitioners : Mr.T.S.R.Venkatramana
^For R1 & R2 : Mr.C.Arul Vadivel @ Sekar

For R3 : Mr.M.Rajarajan

:ORDER

The petitioners- lands were acquired under the provisions of the National Highways Act, 1956. The proceedings got concluded way back in July, 2006. The petitioners also received the compensation determined by the competent authority. The petitioner-s contention is that about 12 cents out of the total extent of 26 cents acquired from them remain un~utilized. Though, not specifically alleged in the affidavit filed in support of this petition, it is stated that some private party is using the un~utilized land as a road for their private purpose.

2.I am of the view that the land acquired from the petitioner herein cannot be allowed by the authorities to be used by a private party for their exclusive purpose.

3.The Standing Counsel denied the allegations made by the petitioner.

The denial is placed on record. A direction is also given to the respondents to ensure that the land acquired from the petitioners is not used by any private party for their exclusive purpose.

4.The learned counsel appearing for the petitioner submitted that as per Section 101 of Central Act 30 of 2013 where the land is remaining un~ utilized, it must be returned to the original owner. The petitioner is ready and willing to pay the proportionate amount received from the authorities. I am of the view that Section 101 of Central Act 30 of 2013 cannot be invoked in this case. This is because, the said provision would apply only when any land acquired under the new Act remained un~utilized for a period of five years.

5.In the present case, the land in question was acquired under the provision of National Highways Act. Secondly, as per Section 105(1) of the Central Act 30, 2013, since the National Highways Act, finds place in the fourth schedule, it is out of the purview of the Central Act 30 of 2013. The Central Act 30 of 2013 can be broadly divided into three parts. The first part pertains to acquisition of the land. The second part pertains to fixing compensation and the third part would relate to other miscellaneous provisions. Even if the central Government has not complied with the mandate set out under Section 105(3) of the Central Act 30 of 2013, still that would make only the provisions relating to determination of compensation applicable to acquisition under the National Highways Act.

6.In this view of the matter, the prayer sought for by the petitioner is not maintainable. More than anything else, the proceedings in question got concluded before the promulgation of Central Act 30 of 2013. Therefore, the prayer for returning of the un~untilized land acquired from the petitioner cannot be accepted. I find no merit in this writ petition. Therefore, this writ petition is dismissed. No costs.

7.The dismissal of this writ petition will not bar the petitioner-s from approaching the respondents or the respondents from passing any orders favouring the petitioners in this regard.

To

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